Bail Slip

The Petitioner/Accused viz., Rvichandran was directed to be released on bail by the order of this Court dated 17.09.2004 and made in Crl.MP.No.9708/04 in Crl.RC.No.1586/04.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 08.06.2007

CORAM:

THE HONOURABLE MR.JUSTICE A.C.ARUMUGAPERUMAL ADITYAN

Crl.R.C.No.1586 of 2004

Ravichandran .. Petitioner/Accused

vs.

State Rep by
The Inspect of Police,
Gudimangalam Police Station,
Coimbatore District. .. Respondent/Complainant

Prayer: This Revision petition has been preferred against judgment dated 10.08.2004 in C.A.No.301 of 2004 passed by the learned Additional District & Sessions Judge, FTC.NO.III, Coimbatore, confirming the judgment in C.C.No.198 of 2002 on the file of the Judicial Magistrate No.II, Udumalpet, dated 17.06.2004.

For Petitioner : Mr.P.Madhan
For Respondent : Mr.V.R.Balasubramanian
Additional Public Prosecutor

JUDGMENT

This revision petition has been preferred against the judgment of the learned Additional District & Sessions Judge, FTC.No.III, Coimbatore, in C.A.No.301 of 2004, which had arisen out of the judgment in C.C.No.198 of 2002 on the file of the Judicial Magistrate No.II, Udumalpet. The accused has been charged under Section 279 and 304(A) IPC.

2. The short facts of the prosecution case is that on 10.7.2002 at about 4.45 pm the accused who had driven a private bus in a rash and negligent manner from North to South on Tiruppur Udumalpet road had dashed the victim, who was riding on his two wheeler on the same direction to his extreme left and caused instantaneous death to him.

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3. On appearance of the accused the learned Judicial Magistrate has furnished copies under Section 207 of Cr.P.C., and when the offence was explained to the accused and questioned he pleaded not guilty.

4.Before the trial Court P.W.1 to P.W.15 were examined and Ex.P.1 to Ex.P.8 were marked. The learned trial Judge after goring through the evidence both oral and documentary held that the accused is guilty under Section 279 IPC and also under Section 304(A) IPC and convicted and sentenced the accused to undergo one month SI and a fine of Rs.500/- with default sentence under Section 279 IPC and convicted and sentenced the accused under Section 304(A) IPC to undergo one year RI and slapped a fine of Rs.4,500 with default sentence. On appeal by the accused, the learned Additional Session Judge after goring through the materials available before him has modified the sentence while confirming the conviction under Section 304(A) IPC. Aggrieved by the findings of the learned first appellate Court, the accused has preferred this revision.

5. Now the point for determination in this revision is whether the conviction and sentence of the learned trial judge under Section 304(A) against the accused is liable to be set aside for the reasons stated in the memorandum of revision?

6. The Point:- Out of 15 witnesses examined before the trial Court, P.W.1 & P.W.2 are the eye witnesses to the occurrence. A reading of the evidence of P.W.1 and P.W.2 will go to show that at the time of occurrence both the victim as well as the accused were driving their respective vehicles on the same direction i.e., from North - South and that while overtaking the vehicle of the victim who was riding on his TVS-50, the accused who was driving the ill-fated bus had dashed on the right handlebar of the TVS-50, which resulted in the victim falling down from his two wheeler on the road and the rear wheel of the bus ran over on his head resulting his instantaneous death. The evidence of the Doctor, P.W.11, who had conducted postmortem would go to show that due to the impact in the accident the victim has sustained fracture on the head and the brain matters came out of the skull besides abrasion all over the body and fracture on the left side of his ribs. The deposition of P.W.1 has been corroborated by the another witness P.W.2 to the effect that at the time of occurrence, the accused had driven his vehicle in a rash and negligent manner which resulted in dashing against the TVS-50 in which the victim was riding at the time of accident. Even though P.W.3 was treated as an hostile witness in his chief-examination he would narrate the manner of occurrence and also identified the accused as the driver who had driven the ill-fated bus. The rough sketch Ex.P.7 and observation mahazar-Ex.P.2 will go to show that the occurrence had taken place on the main road leading to Udumalpet from Tiruppur. Absolutely there is no defence putforward by the accused even at the time of questioning, under Section 313 Cr.P.C. Only after taking into consideration all the facts placed before the Court, the learned trial Judge as well as the first

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appellate Judge have come to the conclusion that the accused is guilty under Section 304(A) IPC. I do not find any reason to interfere with the well considered judgment of the learned first appellate Judge holding that the accused is guilty under Section 304(A) IPC. In appeal the learned first appellate Judge has modified the sentence setting aside the conviction of the trial Court under Section 279 IPC and also further modified the sentence of 1 year RI imposed under Section 304(A) IPC to 1 year SI and confirmed the fine. Under such circumstances, I do not find any reason to interfere with the findings of the learned first appellate Court in C.A.No.301 of 2004 on the file of the Additional District and Sessions Judge, FTC-III, Coimbatore. Point is answered accordingly.

7. In the result, the revision petition is dismissed confirming the judgment of the first appellate Court in C.A.No.301 of 2004 on the file of the Additional District and Sessions Judge, FTC-III, Coimbatore. The trial Court is directed to secure the accused to undergo the unexpended portion of the sentence. Set off is granted under Section 428 of Cr.P.C.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

ssv

To,

1.The Additional District & Sessions Judge,
FTC.No.III, Coimbatore.

2. -Do-Thro' The Principal District & Sessions Judge, Coimbatore.

3.The Judicial Magistrate No.II, Udumalpet.

4. -Do-thro' The Chief Judicial Magistrate, Coimbatore.

5.The Chief Metropolitan Magistrate, Coimbatore.

6.The Inspector of Police, Gudimangalam Police Station, Coimbatore.

7.The Public Prosecutor, High Court.

8. The Superintendent, Central Prison, Coimbatore.

Crl.R.C.No.1586 of 2004

NG(CO)
RVL 15.06.2007

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